

The Consumer Protection toward Characters Done by Seller in the Market

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Abstract — Consumer crime is a crime that is often committed by a person or business entity intentionally or unintentionally where in the of generating greater profits, this action is contrary to criminal law so that it is threatened with criminal penalties. Consumers as the last user of an item or service feel very disadvantaged by fraudulent acts committed by the business actor (seller). Consumers are obliged to be careful and careful when buying an item or service and if consumers see any fraud committed by the business actor, consumers should make a complaint to the party determined by the government. To protect the interests of consumers in daily life of Indonesia, Law No. 8 of 1999 concerning Consumer Protection. This regulation is expected to improve the dignity of consumers, which will increase awareness, knowledge, concern, ability and develop the attitude of responsible business people. Consumers must know their rights and obligations contained in Law No. 8 of 1999. In this study, the type of research used is descriptive. Descriptive research is describing based on existing data or as clearly and in detail about consumer protection against fraud committed by sellers in the market. The problem approach used in this study is a normative approach, which is an approach in the sense of reviewing legal principles or norms and regulations relating to the issues to be discussed. This approach is intended to collect various regulations, theories and literature that are closely related to the study of the problem in question.

Keywords— Consumer Protection, Characters, Seller

I. INTRODUCTION

Humans in their lives have very diverse needs as their welfare increases. Some of human needs are primary, secondary and tertiary needs. But in occupy this need, the community (consumers) must be more careful in choosing safe products. Especially in this modern era, business people (sellers) often deceive consumers to get maximum advantages and business people (sellers) often override consumer rights. Consumers in this case must be protected because the consumers are squeezed in daily trade traffic without adequate legal remedies. The law provides certain rights to consumers which if the rights are violated, the potential for consumer crime. As

stipulated in the consumer protection law, it is stipulated that actions are prohibited for business actors, namely "Business actors are prohibited from producing and / or trading goods and / or services that do not meet or do not meet the required standards and provisions." businesses (sellers) must treat consumers well and must not collude with other business of people (sellers), not vice versa, competitors are our friends and customers are out enemies (our competitors are our friends, while customers are our enemies.) Business people, although in reality this law is balanced in terms of its protection both for consumers and for business people. Consumer protection in Indonesia has been known since 1999 with the issuance of Law No. 8 of 1999 about Consumer Protection the law of consumer rights and obligations as well as rights and obligations from business of people. The Consumer Protection Act gives special attention to consumers in making transactions to buy goods or services, where consumers must be protected by their rights and obligations. But as if this consumer protection law discredited. Consumer protection laws can be the basis for consumers who feel aggrieved and can sue business people, even though there are still many shortcomings. Since the issuance of the consumer protection law, it can still be felt that this regulation has not brought much change to the conditions of consumers and businesses so that the results are not satisfactory. Consumer protection against fraud committed by sellers in this case business actors are very common in the market both in terms of scale, quality of goods sold (expired, decayed) for goods in the form of foodstuffs. But these items in the form of clothing or other items often cause harm to consumers. In this case the author only focuses his research on food ingredients. The problem above shows that the problem of consumer protection is a serious problem, but this problem is only questioned when they are discussed in the news in various mass media. When this problem calms down from the news, this problem seems to have escaped the attention of the public, the government and the parties related to consumer protection.

The problems in this study are:

- a. How is the effort made by consumers to overcome fraud committed by sellers in the market?
- b. How far the government's effort to protect consumers from cheating by sellers on the market?

The objectives of this research are:

- a. To find out how the business carried out by consumers in dealing with fraud committed by sellers in the market.
- b. To find out how the government attempts to protect consumers from cheating by sellers in the market.

The Significances of research

- a. The results of this research are expected to add insight to develop in legal science, especially in the field of legal protection of consumers, especially concerning consumers and business actors (sellers).
- b. The author intends to analyze and to know and understand further how exactly the protection of consumers according to the law is.
- c. The discussion of this research is also intended as a material for scientific contributions to the public to find out in detail about consumers and business actors both regarding their rights and obligations and how to overcome them.

II. REVIEW OF LITERATURE

Several of literature found at least two terms concerning the law that concerns consumers, namely "consumer law" and "consumer protection law". The terms "consumer law" and "consumer protection law" have been heard usually. However, it is not clear exactly explain both of them. Also, are the two "branches" of the law identical? The definition of consumer protection is stated in Article 1 paragraph 1 of Law No. 8 of 1999 stated Consumer Protection, namely: all efforts that guarantee legal certainty to provide protection to consumers. The understanding of consumers is stated in Article 1 paragraph 2 of Law No. 8 of 1999 concerning Consumer Protection, namely: every person who uses goods and or services that are available in the community, both of advantages themselves, their families, other people and other living things and not to be traded. The definition of business actor stated in Article 1 paragraph 3 of Law No. 8 of 1999 concerning Consumer Protection, namely: every individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or carrying out activities within the legal jurisdiction the Republic of Indonesia, either alone or jointly through agreements to conduct business activities in various economic fields. The definition of goods listed

in Article 1 paragraph 4 of Law No. 8 of 1999 concerning Consumer Protection, namely: every tangible or intangible object, whether mobile or immovable, can be spent or not spent, which can be traded, used by consumers. The definition of services listed in Article 1 paragraph 5 of Law No. 8 of 1999 concerning Consumer Protection, namely: every service in the form of work or achievement provided for the community to be used by consumers. By Az. Nasution explained that the two terms are different, namely that the law of consumer protection is part of consumer law. Consumer law according to him: the overall principles and rules governing relationships and problems between various parties with each other related to consumer goods and or services, in the social life. All principles and rules of law that govern and protect consumers in relationship and problem with the providers of consumer goods and or services. Basically, both consumer law and consumer protection law discuss the same thing, namely the legal interests (rights) of consumers. How are consumer rights recognized and regulated in the law and how are they enforced in the practice of community life that is the subject matter of the discussion. Thus, the law of consumer protection or consumer law can be interpreted as a whole law that regulates the rights and obligations of consumers and producers that arise in their efforts to meet their needs. While the scope is the rights and obligations as well as ways of fulfillment in its efforts to meet their needs, namely for consumers ranging from businesses to get their needs from producers, including: information, choosing, prices up to the consequences arising from the user needs, for example get compensation. Whereas producers include obligations related to the production, storage, distribution and trade of products, as well as the consequences of using the product. Thus, if consumer protection is defined as any effort that guarantees the fulfillment of consumer rights as a form of protection for consumers, then the law of consumer protection is nothing but a law that regulates efforts to guarantee the realization of legal protection for the interests of consumers. Article 1 number 1 of Law No. 8 of 1999 gives an understanding of consumer protection as all efforts that guarantee legal certainty to provide protection to consumers.

Legal certainty to provide protection to consumers, among others, is by increasing the dignity of consumers and opening access to information about goods and / or services for him, and developing the attitude of business people who are honest and responsible (consideration of the letter d).

The purpose of Consumer Protection, as intended in Article 3 of Act Number 8 of 1999 concerning Consumer Protection aims:

- a. Increase consumer awareness, ability and independence to protect themselves;
- b. Raising the dignity of consumers by avoiding them from negative excesses in the use of goods or services;
- c. Increase consumer empowerment in choosing, determining, and demanding their rights as consumers;
- d. Creating a system of consumer protection that contains elements of legal certainty and information disclosure and access to information;
- e. Grow business awareness about the importance of consumer protection so that an honest and responsible attitude to business grows;
- f. Improving the quality of goods or services that guarantee the continuity of the production business of goods and services, health, comfort, safety and consumer safety.

According to article 2 of Law No. 8 of 1999 concerning Consumer Protection Consumer protection is organized as a joint venture based on 5 (five) principles relevant to national development, namely:

- a. The principle of benefit is intended to mandate that all efforts in the implementation of consumer protection must provide maximum benefits for the interests of consumers and business actors as a whole.
- b. The principles of justice are intended so that the participation of all people can be realized maximally and provide opportunities for consumers and businesses to obtain their rights and carry out their obligations fairly.
- c. The principle of balance is intended to provide a balance between the interests of consumers, business people, and the government in a material or spiritual sense.
- d. The principle of consumer safety and security is intended to provide security and safety guarantees to consumers in the use, use and use of goods or services consumed or used.
- e. The principle of legal certainty is intended that both businesses and consumers obey the law and obtain justice in the implementation of consumer protection, and the state guarantees legal certainty.

Cheating Competition

According to the Elyta Ras Ginting, Indonesia's Anti-Monopoly Law refers to the Sherman Law. The Sherman Act is a reflection of the wishes of various interest groups, ranging from farmers, populists, small businesses and borders who want dishonest business practices to be stopped. According to Law No. 5 of 1999 concerning

Prohibition of Inappropriate Trading Practices, monopoly is a form of exploitation or production and / or marketing of goods and or the use of certain services by an actor or a business group. Deceiving competition crime is a type of white-collar crime activity in the business and trade sector, which is carried out by a person or legal entity intentionally or unintentionally, actions that are contrary to criminal law so that they are threatened with criminal penalties and can materially and materially harm business competitors and or the community, actions by actors to seek business profits, or expand businesses or companies or other people's property. According to Law Number 5 of 1999 is meant by unfair competition is competition that occurs between business actors in carrying out production or marketing activities carried out in a dishonest manner, harming others and or violating applicable regulations.

III. RESEARCH METHODOLOGY

In this study, the type of research used is descriptive. Descriptive research is describing based on existing data or as clearly and in detail about consumer protection against fraud committed by sellers in the market. The problem approach used in this study is a normative approach, which is an approach in the sense of reviewing legal principles or norms and regulations relating to the issues to be discussed. This approach is intended to collect various regulations, theories and literature that are closely related to the study of the problem in question.

Data and Sources of Data

Data is the most important thing to know in a research discussion. In this study, the data used is secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials.

- a. The primary legal material used in this study is a book that deals with consumer protection.
- b. Secondary legal materials, taken from the literature and books written by experts related to consumer protection. Tertiary law material what is used in this study is legal norms that provide guidance and explanation of primary and secondary legal materials.

Technique of Data Collection

Data collection techniques in this study, using secondary data collection carried out with literature study was carried out by identifying the articles on consumer protection regulated in Law No. 8 of 1999. In the articles identified elements relating to the problem. Literature study is also carried out by identifying books related to problems.

Data Analysis

The secondary data obtained by normative legal research are described, which are analyzed in the form of detailed descriptions based on interpretation of research data in

sentence form. The analysis used is qualitative analysis, which analyzes the data that has been grouped into descriptions so that it can ultimately answer all the existing problems and then compiled systematically in the form of research.

IV. RESULT AND DISCUSSION

The Business Conducted by Consumers to Overcome Cheating Performed by Sellers in the Market.

To protect the interests of consumers in daily life in Indonesia, Law No. 8 of 1999 concerning Consumer Protection. This regulation is expected to improve the dignity of consumers, which in turn will increase awareness, knowledge, concern, ability and develop the attitude of responsible business people. Consumers must know their rights and obligations contained in Law No. 8 of 1999. The efforts that can be made by consumers in overcoming fraud committed by sellers in the market, this is done should the rights and consumers must be considered and besides that they must be empowered:

- a. Consumer dispute resolution body
- b. Agency for protection of self-supporting consumers
- c. Official consumer protection agency from the government
- d. Establishment of consumer ombudsman;
- e. Product boycott.

If there are problems experienced by consumers, they can know where to go to resolve disputes related to fraud committed by business actors (sellers).

Government's Efforts to Protect Consumers from Cheating by Sellers in the Market.

Government efforts to protect consumers from products or goods that can be harmed can be carried out by regulating, and controlling the production, distribution of products so that consumers are not harmed both in terms of health and finances. Based on the objectives and policies to be achieved, the steps that can be taken by the government are:

- 1) Registration and assessment
- 2) Production supervision
- 3) Distribution supervision
- 4) Business development and development
- 5) Improvement and development of infrastructure and personnel.

The role of the government can be categorized as a role that has a long-term impact so that it needs to be carried out continuously to provide information, counseling and education for all parties regarding a product. So, as to create a healthy business environment and the development of responsible entrepreneurs. In the short term the government can resolve directly and quickly disputes related to consumer protections that arise. The

role of the government as a policy holder is very important where the government's responsibility in fostering the implementation of consumer protection is intended to empower consumers to obtain their rights. The government is obliged to establish a Food and Drug Supervisory Agency, abbreviated as POM, which is responsible for overseeing the distribution of drugs and food in Indonesia.

V. CONCLUSION

Consumer crime is a crime that is often committed by someone or business entity intentionally or unintentionally where in the hope of generating of profits, this action is very contrary to criminal law so that it is threatened with criminal penalties. Consumers as the last user of an item or service feel very disadvantaged by fraudulent acts committed by the business actor (seller). Consumers are obliged to be careful when buying an item or service and if consumers see any fraud committed by the business actor, consumers should make a complaint to determine by the government.

1. One way to prevent and overcome the occurrence of consumer crime is to empower:
 - a. Consumer dispute resolution body
 - b. Agency for protection of self-supporting consumers
 - c. Official consumer protection agency from the government
 - d. Establishment of consumer ombudsman;
 - e. Boycott Product.
2. One of the ways carried out by the government in protecting consumers where the government makes steps that must be taken :
 - a. Registration and assessment
 - b. Production supervision
 - c. Distribution control
 - d. Business development and guidance
 - e. Improvement and development of infrastructure and power.

REFERENCES

- [1] Abdulkadir, M. (2001). *Kajian Hukum Ekonomi Hak Kekayaan Intelektual*, Bandung: PT. Citra Aditya Bakti.
- [2] Adi Nugroho, S. (2008). *Proses Penyelesaian Sengketa Konsumen Ditinjau Dari Hukum Acara Serta Kendala Implementasinya*. Jakarta: Kencana Prenada Media Group.
- [3] Ali, M. (2007). *Penegakan Hukum Tentang Tanggung Gugat Produsen Dalam Perwujudan Perlindungan Konsumen*. Yogyakarta: Genta Press.

- [4] Fuadi, M. (1994). *Hukum Bisnis dalam Teori dan Praktek Buku II*. Bandung. : PT. Citra Aditya Bakti.
- [5] Gaspersz, V. (1988). *Sistem Informasi Manajemen (Suatu Pengantar)*. Bandung: Armico.
- [6] Pieris, J.,Wiwik, S. W. (2007). *Negara Hukum dan Perlindungan Konsumen terhadap Produk Pangan Kadaluarsa*. Jakarta: Pelangi Cendikia.